IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Bail Appl..No. 4773 of 2007()

PETITIONER:ACCUSED:

A. KALADEVI, AGED 36 YEARS,
W/O. P. SACHU, MAHILA PRADHAN AGENT,
THATHAMPALLY POST OFFICE, RESIDING AT UTHRAM,
AVALOOKUNNU P.O., ALAPPUZHA.

BY ADV. SRI.S.SUDHISH KUMAR
SMT. K.B.DAYA
SRI.SIBI KARUN

RESPONDENTS:COMPLAINANT:
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1. **THE DEPUTY SUPERINTENDENT OF POLICE,**
   ALAPPUZHA.

2. **THE STATION HOUSE OFFICER,**
   NORTH POLICE STATION, ALAPPUZHA (REPRESENTED BY
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM).

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4773 of 2007

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Dated this the 7th day of August, 2007

ORDER

Application for anticipatory bail. Petitioner is employed as a Mahila Pradhan Agent. The defacto complainant had allegedly opened an account for an amount of about Rs.1.85 lakhs. It is the case of the defacto complainant that on maturity of the account she had signed the requisite papers and the petitioner had promised to return the said amount to her. The same was not returned. The petitioner kept on postponing the payment. Ultimately cheque was demanded. That also was not given. In these circumstances, the defacto complainant was constrained to make a complaint before the Police. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel for the petitioner relies on the rules and procedures for payment of money to the account holders from the postal department and contends that the Postal authorities would never pay the amount to the agent of the account holder. In these circumstances, it is prayed that directions under Sec.438 may be issued in favour of the petitioner, a women to save her from the undeserved trauma of arrest and detention.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that nothing so far is available which can persuade a prudent mind to accept the version of the complainant. At the moment, from the available inputs, the Investigators is satisfied that the amount due to the defacto complainant in her account has not been handed over to her by the petitioner. I shall scrupulously avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that, I do find merit in the opposition by the learned Public Prosecutor.

4. I find merit in the submission that the investigators must be given an opportunity to closely interrogate the petitioner and ascertain the truth. The Investigator must be given an opportunity to recover the money where it is hidden, if it is so hidden. At any rate, it is not necessary to permit the petitioner to get herself armed with an order of anticipatory bail. The efficacy of the investigation will be eroded if opportunity for interrogation is not furnished to the investigator. I am in these circumstances satisfied that the petitioner is not entitled to invoke the extraordinary equitable discretion under Section 438 Cr.P.C.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE